IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 3196 OF 2004

Pirojsha Godrej Foundation .. Petitioner
V/s.
Vijaya K. Kutty and Another .. Respondents

Mr. J.D. Mistry i/b. M/s. Maneksha & Sethna for the Petitioner
Mr. B.M. Chatterjee with Mr. R. Ashokan for the Respondents

CORAM : S. RADHAKRISHNAN &
J.P. DEVADHAR, JJ.
DATED : 01.02.2005

P.C.:-

1. Heard the learned counsel for the Petitioner and the learned counsel for the Respondents. By this Petition, the Petitioner is basically challenging the Notice dated 18.5.2004 issued by the Assistant Director of Income Tax under Section 148 of the Income Tax Act, 1961. Thereafter the Assistant Director of Income Tax by an letter dated 10.6.2004 has already given the reasons for such re-opening of the Assessment under Section 148 of the Income Tax Act. The learned counsel for the Petitioner brought to our notice judgment of the Supreme Court in **GKN Driveshafts (India) Ltd. v. Income-Tax Officer and Others 259 ITR 19**.

2. In view of the said judgment in **GKN Driveshafts (India) Ltd. v. Income-Tax Officer and Others 259 ITR 19**, wherein the Supreme Court has observed as under:-

> "We see no justifiable reason to interfere with the order under challenge. However, we clarify that when a notice under section 148 of the Income-tax Act is

issued, the proper course of action for the noticee is to file a return and if he so desires, to seek

reasons for issuing notices. The Assessing Officer is bound to furnish reasons within a reasonable time. On receipt of reasons, the noticee is entitled to file objections to issuance of notice and the Assessing Officer is bound to dispose of the same by passing a speaking order. In the instant case, as the reasons have been disclosed in these proceedings, the Assessing Officer has to dispose of the objections, if filed, by passing a speaking order, before proceeding with the assessment in respect of the aforesaid five assessment years."

3. The learned counsel for the Petitioner states that the Petitioner will file the objections with regard to the aforesaid Notice. The learned counsel appearing for the Respondents states that if such objections are filed within a period of two weeks, the Assessing Officer shall dispose of the same, as expeditiously as possible, by passing a speaking order before proceeding with the final assessment. Rule is made absolute in the above terms.

(S. RADHAKRISHNAN, J.)

(J.P. DEVADHAR, J.)